Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	**)**	**CG Docket No. 02-278**
	)	
Rules and Regulations Implementing	**)**	
	)	
the Telephone Consumer Protection	**)**	
	)	
Act of 1991	**)**	

OPPOSITION TO REQUEST FOR EXPEDITED STAY OF THE AMERCIAN TELESERVICES ASSOCIATION

I respectfully submit this Opposition to the Request for Expedited Stay of the American Teleservices Association ("ATA") in regard to the Commission's Report and Order adopted June 26th, 2003. [In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Report and Order, FCC Rcd., 03-153 (F.C.C. Jul 03, 2003), 68 FR 44144-01.]

The Commission's NPRM was published in the Federal Register on October 8, 2002. Over 6000 comments were filed by the telemarketing industry and consumers during the comment and further comment period. More then enough empirical data and legal precedence was provided by consumers to the Commission in support of a National No Call list.

What stood out during that comment period was the fact that all the courts that have heard a constitutional challenge to the TCPA have unanimously issued decisions that the TCPA does not violate the constitutional rights of the telemarketing industry.

Despite such overwhelming precedence of trial court decisions, the ATA is suggesting it will miraculously convince the courts otherwise on its claim: "ATA's members will be denied opportunities to engage in protected speech." Nothing could be further from the truth – the telemarketing industry belies the fact that they have lost every constitutional challenge to the TCPA they have brought. There, simply put, is no merit to the ATA's arguments.

The ATA claims that their members must "scramble" to comply with the new Commission rules. The only 'new rule" that is a significant change from the previous rules is the creation of a National No Call list. Given the Commissions consideration of a National No Call list early on in the history of the TCPA, the many state no call lists and the FTC announcement of a National No Call list the "writing on the wall" that a national no call list was coming was clearly evident to everyone engaged in telemarketing years ago.

The ATA's freedom of speech challenge to this new rule is a challenge to everyone's right to place a do not trespass sign on their property. Such a legal challenge is absurd! It even goes against the grain of the telemarketing industries own mantra to "not call anyone that does not want to be called." The Supreme Court will not grant the telemarketing industry the right under the constitution to force their siding, credit card, magazine subscription, etc. pitches on those that have placed a no trespassing sign at the entrance to their private property.

The ATA claims that millions will lose their jobs, the telemarketing industry will be put out of business and world economic disaster will result. Again, another absurd claim - our economy and the world economy is not based on the profits of the telemarketing industry.

There is no merit to the ATA's claims. The claims will not prevail just as they have never prevailed. A stay, as the ATA is requesting will serve only the needs of the telemarketing industry, is an unnecessary delay and will harm the general public - specifically those that have erected a do not trespass sign on their private property announcing that the never have and never will buy from a cold calling telemarketer.

In conclusion, a jury of 30,001,712 (sign ups for the National Do Not Call list as of 08/07/03) has returned a verdict that unsolicited telemarketing to billions of telephone numbers a year is no longer acceptable to our society.

As such, I respectfully request that the Commission deny the American Teleservices Association's Request for Expedited Stay of the Commissions rules adopted on June 26th, 2003.

Respectfully submitted,

_____/s/_____

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